No.

567

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

No. 567

MISSISSIPPI RIVER FUEL CORPORATION,
Petitioner,

v.

FEDERAL POWER COMMISSION,
Respondent.

MOTION OF UNITED GAS PIPE LINE COMPANY TO CORRECT AND AMEND TITLE AND CAPTION.

THOMAS FLETCHER
11th Floor Esperson Bldg.
Houston 2, Texas.

C. HUFFMAN LEWIS
P. O. Box 1707
Shreveport, Louisiana
Attorneys for United Gas Pipe Line Company

W. O. CRAIN, *General Counsel*
GEORGE D. FISER
P. O. Box 1407
Shreveport, Louisiana.

Of Counsel for
United Gas Pipe Line Company.
October 30, 1957

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Mississippi River Fuel Corporation,

Petitioner,

v.

Federal Power Commission,

Respondent.

MOTION OF UNITED GAS PIPE LINE COMPANY TO CORRECT AND AMEND TITLE AND CAPTION.

United Gas Pipe Line Company, a corporation (hereinafter called "United") hereby respectfully moves this Honorable Court for a rule or order to correct and amend the title and caption of this proceeding, to show "United Gas Pipe Line Company" as a party respondent, upon the following grounds and for these reasons:

1.

In the United States Court of Appeals for the District of Columbia Circuit, from whose decision this appeal is taken, the parties were aligned with Petitioner herein, as Petitioner there, on one side, and the Federal Power Commission as Respondent, and United Gas Pipe Line Company, as Intervenor on the other side.

As certified to this Court by the Clerk of the Court of Appeals (R. 1101), the full and correct title of this action in the Court below was:

MISSISSIPPI RIVER FUEL CORPORATION, *Petitioner*, vs. FEDERAL POWER COMMISSION, *Respondent*. UNITED GAS PIPE LINE COMPANY, *Intervenor*.	No. 13199

2.

United is the real party at interest. The order of the Federal Power Commission was entered in a consolidated proceeding of Dockets G-2210 and G-1142. At G-2210, the Commission suspended United's notice of increased rates and ordered a hearing under its review powers of Section 4(e) of the Natural Gas Act. At G-1142, the Commission, on its own motion, initiated an investigation into all of United's rates pursuant to Section 5(a) of the Natural Gas Act. The order determined the just and reasonable rates, charges, classifications, rules, regulations, practices, and contract to be thereafter observed and in force from United to Petitioner. These proceedings are an attempt to review the order so determining such rates, terms and conditions of service. The Court of Appeals, in a split decision, affirmed that order in part (Parts II, III and IV, R. 1050-1057) from which stems this appeal.*

* Petition for Certiorari to Part I of the decision below, R. 1047-50, as corrected and supplemented, R. 1095-97, by a unanimous court, pends in this Court, No. 508, this term, styled United Gas Pipe Line Company, Petitioner, v. Mississippi River Fuel Corporation and Federal Power Commission, Respondents.

3.

Petitioner and United executed a joint designation of record for the use of each on appeal to this Court from different portions of the decision below. The style of the action in such joint designation was precisely that certified to this Court by the Clerk of the Court of Appeals as set out above (R. 1098).

4.

In addition to the foregoing, United respectfully asserts:

(a) United was a full party, and a real party in interest, in the case below (See United's Motion to Intervene, R. 1032-43a; Order permitting intervention, R. 1044), and is such in the proceedings here; that its status and rights as a party in these proceedings are determined by and are a matter of law, and are not determined, nor can they be determined, by Petitioner, by the form and style of the title or caption of its Petition for Certiorari, or by Petitioner's failure to serve such Petition upon United (Rules 21(2), 33); that the determination of who is or is not a party in a proceeding in this Honorable Court should not and does not depend upon the discretion, election or tactical considerations of the filing party seeking review. See *National Helium Canyon Association, Inc.* v. *Federal Power Commission*, No. 773, October Term, 1956, Order of March 4, 1957.

(b) United is a necessary and indispensable party to this proceeding. The issues sought to be raised in this Court affect the relationship of United and Petitioner, as well as United's relationship, power and duty to the Federal Power Commission. They involve the rates, terms, conditions, and provisions of service and sale of natural gas by United to Petitioner subject to regulation by the Federal Power Commission pursuant to the Natural Gas Act. Thus,

these proceedings will directly affect United, whose presence is necessary to consideration and disposition of the issues posed by Petitioner. See, *Seas Shipping Company, Inc.* v. *Sieracki* (1946) 328 U.S. 85, 89.

(c) The denial of full party status to United in these proceedings, which determines the terms, conditions, and provisions of its service and sales of natural gas to Petitioner, and its liabilities hereunder referred to, would deny to United its day in this Honorable Court to defend its substantial rights and duties as a natural gas company under the statutory regulatory order of the Federal Power Commission. Any judgment altering or changing the order of the Commission would injuriously affect United's interests, and would be a denial to it of due process of law under the Fifth Amendment to the Constitution of the United States.

WHEREFORE, United respectfully prays that this Court issue its rule or order correcting and amending the title and caption of this proceeding by showing United Gas Pipe Line Company as one of the respondents, or for such other order as this Honorable Court deems meet and right in the premises.

Respectfully submitted,

THOMAS FLETCHER
13th Floor Esperson Building
Houston 2, Texas

C. HUFFMAN LEWIS
P. O. Box 1707
Shreveport, Louisiana
Attorneys for United Gas Pipe Line Company.

WILBERT O. CRAIN
General Counsel

GEORGE D. FISER
P. O. Box 1407
Shreveport, Louisiana
Of Counsel for United Gas Pipe Line Company

October 30, 1957

CERTIFICATE OF SERVICE

I, Thomas Fletcher, Attorney for United Gas Pipe Line Company, and a member of the Bar of the Supreme Court of the United States, do hereby certify that I have served the foregoing Motion of United Gas Pipe Line Company to Correct and Amend Title and Caption by depositing a true and correct copy thereof in the United States Mail, air-mail postage prepaid, on October 30, 1957, addressed to the following:

J. Lee Rankin, Esquire,
Solicitor General of the United States,
Washington 25, D. C.

Willard W. Gatchell, Esquire,
General Counsel,
Federal Power Commission,
441 G Street, N. W.,
Washington 25, D. C.

Howard Wahrenbrock, Esquire,
Solicitor,
Federal Power Commission,
441 G Street, N. W.,
Washington 25, D. C.

Louis L. DaPra, Esquire,
Attorney,
Federal Power Commission,
441 G Street, N. W.,
Washington 25, D. C.

William A. Dougherty, Esquire,
Spencer W. Reeder, Esquire, and
James Lawrence White, Esquire,
Counsel for Petitioner, Mississippi
River Fuel Corporation,
30 Rockefeller Plaza,
New York 20, N. Y.

Norman A. Flaningam, Esquire,
Counsel for Petitioner, Mississippi
River Fuel Corporation,
425 13th Street, N. W.,
Washington, D. C.

Cleon L. Burt, Esquire,
Counsel for Petitioner, Mississippi River
Fuel Corporation,
407 North Eighth Street,
St. Louis 1, Missouri.

.....

THOMAS FLETCHER

Attorney for United Gas
Pipe Line Company.